

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

NO. CR18-5141 BHS

v.

**JOINT PROPOSED JURY  
INSTRUCTION REGARDING  
LIMITED PURPOSES FOR WHICH  
CERTAIN EVIDENCE SHOULD BE  
ADMITTED**

DONNIE BARNES, SR.,

Defendant.

In response to the Court's minute order issued after the pretrial Conference on October 22, 2019 (Dkt 69), the parties have conferred and propose the following limiting instruction, which should be read to the jury before Exhibit 5 is published to the jury. The government intends to offer three exhibits containing contraband that it will seek to publish to the jury (as well as redacted versions of these same exhibits). Exhibits 3 and 4 pertain to visual depictions of J.T. Exhibit 5 contains visual depictions minors other than J.T. That Exhibit thus relates primarily to Count 3 of the Indictment, though the government will argue that the defendant's possession of these visual depictions does constitute evidence of the defendant's culpable mental state as it relates to Count 1 and 2. As such, the parties have agreed on the following limiting instruction to be read to the jury before the government publishes Exhibit 5.

DATED: October 18, 2019

*Attorneys for Defendant*

BRIAN T. MORAN  
United States Attorney

s/ Mohammad Ali Hamoudi  
MOHAMMAD ALI HAMOUDI  
GREGORY MURPHY  
Assistant Federal Defenders

s/ Matthew Hampton  
MATTHEW HAMPTON  
LYNDSIE R. SCHMALZ  
Assistant United States Attorney

REQUESTED INSTRUCTION NO. \_\_

INSTRUCTION NO. \_\_\_\_

You are about to hear testimony about and view evidence contained in Government's Exhibit 5. You should consider this evidence in determining whether the defendant is guilty of the offense charged in Count 3. You may also consider this evidence in determining whether the defendant had the state of mind, knowledge, or intent necessary to commit the crimes charged in Counts One and Two of the Indictment.

Do not consider this evidence for any other purpose.

Of course, it is for you to determine whether you believe this evidence and, if you do believe it, whether you accept it for the purpose offered. You may give it such weight as you feel it deserves, but only for the limited purposes that I described to you.

You may not consider this evidence as proof that the defendant has a bad character or any propensity to commit crimes. Specifically, you may not use this evidence to conclude that because the defendant may have committed the offense charged in Count 3 he must also have committed the acts charged in Counts 1 or 2 of the Indictment.